

LYNN STILLWELL
PHILLIPS COUNTY CROUT CLERK

IN THE CIRCUIT COURT OF PHILLIPS COUNTY, ARKANSAS DO

CIVIL DIVISION

MARTHA HUNT, PERSONAL REPRESENTATIVE
OF THE ESTATE OF TOMMY LEE HUNT,
DECEASED, AND ON BEHALF OF THE
WRONGFUL DEATH BENEFICIARIES
OF TOMMY LEE HUNT

PLAINTIFF

VS.

NO.54(V-20-148

THE HOME DEPOT, INC.;
HOME DEPOT U.S.A., INC.;
TELESTEPS, INC.;
REGAL IDEAS, INC; AND
XIN WEI ALUMINUM PRODUCTS CO., LTD.

DEFENDANTS

COMPLAINT

Comes now the Plaintiff, Martha Hunt, Personal Representative of the Estate of Tommy Lee Hunt, by and through her attorneys, David Hodges and Andre Valley, and for her cause of action against The Home Depot, Inc., Home Depot U.S.A., Inc., Telesteps, Inc., Regal Ideas, Inc., and Xin Wei Aluminum Products Co. Ltd., Defendants and states:

JURISDICTION AND VENUE

 The Circuit Court of Phillips County, Arkansas, has jurisdiction of this case because the Plaintiff is seeking relief against the Defendants in this civil proceeding, thereby giving this court jurisdiction under Ark. Code Ann. § 16-4-101 and Ark. Code Ann. § 16-13-201.

2. The venue for this action is in Phillips County, Arkansas, pursuant to the provisions of Ark. Code Ann. § 16-60-101 et. seq.

PARTIES

- The Plaintiff, Martha Hunt, wife of the Decedent, is a resident of
 Lambert Drive, Helena-West Helena, AR 72390, in Phillips County,
 Arkansas.
- 4. Defendant, The Home Depot, Inc., is a foreign, for-profit entity incorporated under the laws of Delaware. The registered agent for The Home Depot, Inc. is Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.
- 5. Defendant, Home Depot U.S.A., Inc. ("Home Depot USA"), is a foreign, for-profit entity incorporated under the laws of Delaware. Home Depot USA is licensed to do business in the state of Mississippi. The store related to this complaint is located at 7260 Interstate Boulevard, Horn Lake, Mississippi, 38637. Home Depot USA's principal place of business is 2455 Paces Ferry Road, Atlanta, Georgia, 30339. Home Depot USA can be served in Arkansas at its registered agent Corporation Service Company, 300 Spring Building, Suite 900, 300 S Spring St, Little Rock, AR 72201.

- 6. At the time it is believed to have placed the subject product(s) into the stream of commerce, Defendant Telesteps, Inc. ("Telesteps") is believed to have been a foreign for-profit entity incorporated under the laws of the states of New York. It is believed that Telesteps can be served at the following address: 102-2840 West Valley highway North, Auburn, Washington, 98001.
- 7. Defendant, Regal Ideas, Inc. ("Regal"), is a foreign for-profit corporation licensed to do business in the state of Washington. Its principal place of business is 9320 4th Avenue S, Seattle, Washington, 98108. Its registered agent is James Stubner, 2003 Western Avenue, No. 400, Seattle, Washington, 98121.
- 8. Defendant, Xin Wei Aluminum Products Co., Ltd. ("Xin We"), has an address of Erlong Industrial Zone, Fochen Road, Checun Town, Shunde District, Foshan City, People's Republic of China.

FACTUAL BACKGROUND

- 9. The Decedent, Tommy Lee Hunt, was changing light bulbs at New Light Baptist Church located at 522 Arkansas Street, Helena, AR 72342, in Phillips County, Arkansas on or about February 13, 2018.
- 10. Mr. Hunt was using a Telesteps Model 16S ladder to change the light bulbs. The Telesteps ladder broke causing Mr. Hunt to fall and hit his head on a church pew. The ladder is property of New Light Baptist Church.

- 11. Mr. Hunt was found on the floor of the church, lying face down, a little after 4:00 p.m. by Michael Gaddy. Mr. Gaddy called his ex-wife, Peggy Gaddy, instructing her to call 911.
- 12. The Phillips County Sherriff's Department and Helena-West Helena Police Department were dispatched and arrived on the scene to secure the location and to do an investigation.
- 13. Pafford Medical Services transported Mr. Hunt by ambulance to the Helena Regional Medical Center Emergency Department.
- 14. The Phillips County Coroner, Adam Rowland, pronounced Mr. Hunt deceased at 5:00 p.m. Mr. Hunt's body was received and transported by Jackson-Highly Funeral Home, Inc.
- 15. The ladder used by the Decedent was purchased from The Home Depot.

COUNT I NEGLIGENCE

- 16. As a cause of action and ground for relief, Plaintiff alleges the factual matters described in paragraphs Nos. 1 through 15, inclusive, to the complaint as part of this count.
- 17. The death of the Decedent was caused by the Telesteps Model16S ladder and Defendants are guilty of negligence, which consists of, but is

not limited to, the following, which were an actual and proximate cause of the injuries and damages:

- a. Negligently failed to design, manufacture, and construct components that operated properly under the circumstances.
- b. Failure to use ordinary care under the circumstances.
- c. Defendants failed to use ordinary care under the circumstances.
- d. Defendants breached the standard of care owed to their customers, resulting in injuries to the foreseeable user of the product, Tommy Lee Hunt.
- e. The conduct of Defendants fell below the standard of care required of designers, manufacturers, and sellers of products such as the subject ladder and components in this case, and this constitutes negligence.
- f. Defendants negligently failed to properly inspect, test, and maintain in good condition, the subject ladder, and Defendants failed to possess and apply with reasonable care the degree of skill and learning ordinarily possessed and used by designers, manufacturers, and sellers of ladders such as the subject ladder, engaged in the same type of business in the locality in which they practiced, or in a similar locality, and Defendants, therefore, are guilty of negligence.
- g. Defendants failed to design, manufacture, or sell a ladder with the proper safety features.
- h. Defendants failed to warn the intended consumer or user of the product, of the defective conditions in the ladder, thereby creating a substantial risk.
- i. Defendants negligently failed to discover the defective conditions in the ladder or its components.

- j. Defendants failed to repair or correct the defective condition before the sale of the ladder.
- k. Defendants failed to design, construct, manufacture, assemble, inspect or test the subject ladder to render the same suitable for the ordinary course of its use.
- I. Defendants are otherwise guilty of negligence which will be more particularly described during the course of the litigation.
- 18. Plaintiff believes that the death of the Decedent was actually and proximately caused by the negligence of the Defendants acting by and through their duly authorized agents, servants, workmen, and/or employees, who are guilty of negligence in the design, fabrication, assembly, manufacture, labeling, sale, delivery, and supplying of the ladder.

COUNT II STRICT LIABILITY

- 19. As a cause of action and ground for relief, Plaintiff alleges the factual matters described in paragraphs Nos. 1 through 18, inclusive, of the complaint as part of this count.
- 20. Plaintiff contends the Defendants were engaged in the business of manufacturing, assembling, and selling ladders, that the ladder in question was supplied by Defendants in a defective condition, and the defective condition was an actual and proximate cause of the Decedent's death. Plaintiff contends the Defendants are absolutely or strictly liable to the Plaintiff.

BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY

- 21. As a cause of action and ground for relief, Plaintiff alleges the factual matters described in paragraphs Nos. 1 through 20, inclusive, of the complaint as part of this count.
- 22. Plaintiff contends the Defendants impliedly warranted that the ladder was merchantable at the time it was sold to the Decedent. Plaintiff contends there was a breach of the implied warranty of merchantability.
- 23. The ladder was not adequately constructed and did not conform to the promises and affirmations of the Defendants. Plaintiff contends the Defendants breach the warranty of merchantability in that Decedent died as result of the ladder, which was not merchantable, and the unmerchantable condition was the actual and proximate cause of his injuries and death.
- 24. Decedent was an individual whom Defendants would reasonably expect to use, consume, and be affected by the ladder.
- 25. Sufficient notice has been given to the Defendants, and Defendants have been reasonably and timely notified of their breach of warranty in compliance with the laws of the State of Arkansas.

BREACH OF THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE

- 26. As a cause of action and ground for relief, Plaintiff alleges the factual matters described in paragraphs Nos. 1 through 25, inclusive, of the complaint as part of this count.
- 27. Plaintiff claims damages from Defendants on the ground that the ladder was not fit for the particular purpose for which it was intended.
- 28. Defendants, at the time of sale, had reason to know the particular purpose for which the ladder was required.
- 29. Defendants knew Decedent was relying upon Defendants' skill and judgment to select and furnish a suitable ladder.
- 30. The ladder was not fit for the particular purpose for which it was required, and this unfitness was a proximate cause of Decedent's death.
- 31. Decedent was an individual whom Defendants would reasonably expect to consume, use, and be affected by the ladder.

COUNT V BREACH OF EXPRESS WARRANTIES

32. As a cause of action and ground for relief, Plaintiff alleges the factual matters described in Paragraphs 1 through 30, inclusive, of the Complaint as a part of this count.

- 33. Plaintiff claims damages from Defendants on the ground that the Defendants made and breached certain express warranties concerning the ladder.
- 34. The ladder did not conform to the express warranties created. The failure of the ladder to conform to the express warranties was a proximate cause of the Plaintiff's injuries and damages.
- 36. Plaintiff is an individual whom Defendants might reasonably expect to use, consume, and be affected by the ladder.

COUNT VI WRONGFUL DEATH AGAINST ALL DEFENDANTS

- 37. As a cause of action and ground for relief, Plaintiff alleges the factual matters described in paragraphs Nos. 1 through 36, inclusive, of the Complaint as part of this count.
- 38. As a direct and proximate result of the previously alleged conduct, all of which were willful and wanton, outrageous, reckless, malicious and/or intentional, the Defendants caused the death of Decedent.
- 39. Decedent suffered personal injuries, including but not limited to, death, which caused the family of Decedent to suffer more than the normal grief upon losing their loved one under the circumstances.

- 40. Plaintiff prays for compensatory damages against the Defendants for the wrongful death of Decedent, including, but not limited to, the grief suffered, as well as the expense of the funeral and other related costs.
- As a direct and proximate result of the willful, wanton, reckless, 41. malicious and/or intentional conduct, Plaintiff asserts a claim for judgment for all compensatory damages and punitive damages against the Defendants, including, but not limited to, pain and suffering, loss of enjoyment of life, the loss of life, and severe emotional distress, as well as funeral expenses and related costs against the Defendants in an amount to be determined by the jury, exceeding that required for federal court jurisdiction in diversity of citizenship cases, plus costs and all other relief to which the Plaintiffs may be entitled, including, but not limited to, claims on behalf of the wrongful death beneficiaries of the decedent, and for any and all other damages that the Plaintiff and beneficiaries are entitled to recover pursuant to the provisions of Plaintiff sues for, pursuant to the Wrongful Death Statute, AMI 2216. pecuniary injuries sustained by the beneficiaries under the Wrongful Death Statute, together with mental anguish on behalf of the beneficiaries of the decedent under the Wrongful Death Statute.

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COUNT VII SURVIVAL CLAIMS

- 42. As a cause of action and ground for relief, Plaintiff alleges the factual matters described in paragraphs Nos. 1 through 41, inclusive, of the Complaint as part of this count.
- 43. In addition to the wrongful death claims, certain of the acts described herein occurred during the lifetime of Decedent, prior to his death, and, therefore, Plaintiff asserts a cause of action and claim on behalf of the estate and on behalf of the heirs at law of the estate; for the survival claims that arose by reason of the Defendant's misconduct during the lifetime of Plaintiff's decedent, prior to his death.
- 44. Plaintiff asserts a claim for damages on behalf of the Estate of Decedent for damages that Decedent himself would be entitled to bring, had he survived.
- 45. Plaintiffs assert a claim for damages on behalf of the Estate of Plaintiff's decedent for loss of life, funeral expenses, conscious pain and suffering experienced by Plaintiff's Decedent prior to his death, medical expenses, disfigurement, and punitive damages.

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PRAYER FOR RELIEF

- 46. Plaintiff asks for damages requested herein, in the various causes of action asserted herein, together with the damages, recited previously, pursuant to the provisions of Ark. R. Civ. P. 10(c).
- 47. Plaintiff is suing for the following elements of damage, and asks for damages sustained by Decedent, funeral expenses, and other pecuniary injuries and damages as set forth and described in AMI 2216, including the various sub-parts of the pecuniary injuries and the reasonable cost of funeral expenses.
- 48. Plaintiff makes a demand against the Defendants, jointly and severally, for a sum in excess of the minimum jurisdictional requirements for federal court, together with costs and all other relief to which the Plaintiff may be entitled, including attorneys' fees for the breach of implied warranties under the causes of action asserted herein, together with a judgment for compensatory and punitive damages, in an amount to be determined by the jury, but, in any event, compensatory and punitive damages, that are in excess of the amount required for federal court jurisdiction, together with the costs and all other expenses of the prosecution of this action, and for all other appropriate relief under the circumstances.

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JURY DEMAND

49. Plaintiff, pursuant to Rule 38 of the Arkansas Rules of Civil Procedure, demands a jury trial on all factual issues.

MARTHA HUNT, PERSONAL
REPRESENTATIVE OF THE ESTATE
OF TOMMY LEE HUNT, DECEASED
AND ON BEHALF OF THE
WRONGFUL DEATH
BENEFICIARIES OF TOMMY LEE

Bv:

HUNT

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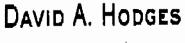
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CERTIFIED MAIL®



ATTORNEY AT LAW

CENTRE PLACE - FIFTH FLOOR

212 CENTER STREET

LITTLE ROCK, AR 72201-2429

FORWARDING ADDRESS REQUESTED



7014 2870 0000 5130 7070



The Home Depot, Inc.
c/o Corporation Service Company
251 Little Falls Drive
Wilmington, DE 19808

19081574 0079



Claim #: 20200768512

GENERAL INFORMATIO	N Carlotte Land Control	A SEC OF LOW BUILDINGS	a make make Alberta
What date did the incident occur?	02/13/20	Your Name (Reporter name)	CLAIMS ADMIN
At what time did the incident occur?	12:00PM	Did the incident occur on The Home Depot's premises?	Other
Reporter E-mail		Reporter Loc#	AR99
Phone Number Ext.	1111111111	Reporter Loc Name	ARKANSAS STATE CODE
Accident Location	AR99 - Arkansas	Accident Location Name	
Address 1	522 Arkansas Street	Address 2	
City	Helena	State/Province	Arkansas
Country	United States		
Please provide a brief description of the incident. If applicable, please include any injury sustained and the body part involved. (254 character limit)	FNOL - Claimant is personal re causing him to fall and hit his h	p of deceased. Mr. Hunt was using a tele ead.	step ladder when it broke
Is this a delivery incident?	No	Is this an Installed Sales	No
Does the incident involve damage to a customer's (or non-Home Depot) property?	No	incident?	
INVOINTED INDIVIDUAL	INFORMATION	是 "你是一个 "是"我们",	
Name — — Manufille — Manue	TOMMY L HUNT	E-mail	
Address1	522 Arkansas Street	Address 2	
City	Helena	State/Province	Arkansas
Zip/Postal Code	72342	Country	United States
Phone		Cell	
Gender		Birth Date	
Is this individual a minor?		Marital Status	
Name of Minor's Parents			
ACCIDENT INFORMATIO	N market to the state of the st	文字名的是名的 法指示法的结节及关系	
Was the Involved individual transported to the hospital by ambulance, medical air-lift or other vehicle?	Unknown	Exact Incident Location (e.g., Bay 5 Lumber Aisle, Cash Register 5, etc.)	UNK
In what Department did the incident occur?	-Unknown	Department Head	N/A
Accident Info2			
Who was the first associate to respond?		Associate who heard the incident.	
Associate who saw the incident.		Who investigated the incident?	UNK
Were pictures taken?	Unknown	Who took the pictures?	
Was the incident captured on CCTV?	Unknown	What is the cameras name?	
What is the camera's number?		What time was it captured on CCTV?	
Was a vendor/supplier involved?	Unknown	Vendor/Supplier Business Name	
Vendor/Supplier Phone		Vendor/Supplier Address (e.g., 2455 Paces Ferry Rd., Atlanta, GA 30339)	
Vendor/Supplier Contact Name		Was merchandise involved?	No



General Liability Claim Worksheet

Was equipment involved?	N	Manufacturer Name	
SKU (ex: 000000, no dashes)		UPC Transaction of the Property of the Propert	
Merchandise Description (Product, Brand, Item Name, size, quantity)		Equipment Description (brand, make, model, serial #)	
Asset Protection Associate Name		Outside Security Company Name	***************************************
Outside Security Company Employee		Other Home Depot Associate Name	
Damage During Delivery		Who Was Involved	
Associate Name		Associate Phone	
Were the authorities involved with the incident?		Please describe how and what authorities were involved including the case #.	
INSTALLED SALES			
The firstall of ghated Trom:		Pvendor Number	
Mvendor Number		Customer Order Number	THE AMERICAN CONTRACTOR OF THE
Purchase Order Number		Installer Number	
Lead Number		Name of the property where the incident occurred.	
Address		City S. M. Charles S.	
State/Province		Zip/Postal Code	
Phone where the incident occurred.	-	Alternate phone where the incident occurred.	
Business Name		Business Address (e.g., 2455 Paces Ferry Rd, Atlanta, GA 30339)	
Business Phone Number	-	Business Cell Phone Number	
Business Cell Phone Number		Business Fax Number -	
Business E-mail		Business Contact Name	
Vendor Status		Install Type	
Installation Date		Product Type	
Product SKU Number (ex: 000000, no dashes)		Product UPC Number	
Product Brand Name		What is the labor warranty for this job?	
What is the product warranty for this job?		Was there a pre-inspection report?	
Was service provider/vendor notified of damages/injury?		Has the workmanship been corrected?	
What is the date that the workmanship was corrected?		Please describe how the workmanship has been corrected.	
Please describe how the workmanship has been corrected.			
BODILY INJURY	医复数性性	12.16克罗丁 大學科 含亚亚亚	
Medical Facility Name		Medical Facility Address	
Medical Facility Ph. Number-Ext:		2,544,662 - 10,688,873 - 14,673,773 - 14,573,673 - 12,573,673 - 12,573,773 - 12,573,773 - 12,573,773 - 12,573	
PROPERTY DAMAGE		(1) (1) (1) (2) (4) (4) (4) (4) (4) (4) (4) (4) (4) (4	46.135
Description of Property			
Description of Damage			
Damaged Vehicle Plate/Tag		Damaged Vehicle VIN	
Damaged Vehicle Make		Damaged Vehicle Year	
DEPOT DIRECT	-1765 CM (2014) (1874) 1874 1874		



General Liability Claim Worksheet

Has an incident been reported to Electric Insurance?		Was the damage caused from the installation?	
Was it a GE Direct installer?		Purchase Order Number	
Master Shipping Number		Date of Delivery	
Appliance Model Number		Appliance Serial Number	
HODERSKING GENER			A SECTION OF THE SECT
Incident involved rental through tool rental center (TRC)?	N	Contract #	
TRC Unit #		Serial #	
WITNESS INFORMATIO	N A STATE OF THE S	《学····································	后,有数数数的数数数数数数数数数数数数数数数数数数数数数数数数数数数数数数数数数
Who should be contacted at the store/location?	ADMIN ADMIN	Phone # - Ext.	111-111-1111 -
Was there a witness to the incident?	No	Is witness 1 a THD Associate?	
Witness 1 Name		Phone - Ext.	-
Street		City	
State/Province		Zip/Postal Code	2 4
Is witness 2 a THD Associate?		Witness 2 Name	
Phone - Ext	-	Street	
City		State/Province	
Zip/Postal Code			
Email Recipient			
Do you have any additional information or comments about this incident? (254 character limit)			

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